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D-1056 DIV3

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12/08/2008

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EXAMINER

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ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

***Reply Brief Acknowledged***

The supplemental reply brief filed 9/29/08 has been entered and considered.

The affidavit, as pointed out by the Board, misidentifies the inventors of claims 38 and 48, with applicant failing to identify the inventors of the respective claims as a way of rebutting the misidentification.

As indicated in the Examiners Answer and the Supplemental Examiner's answer, the Affidavit was essentially moot in view of applicant's invention date being junior to the priority date of Pearson '029 from which Pearson '232 depends.

The Office accepted in the 6/18/03 reply brief acknowledgement the changes in the claim groupings in the reply brief of 4/5/03, so the claim groupings of the 2/13/2003 as modified by the 4/5/03 Reply brief remain.

The remaining arguments were previously addressed and are still deemed unpersuasive.

The application is being forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

/M. E. B./

Examiner, Art Unit 3653

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/Patrick H. Mackey/

Supervisory Patent Examiner, Art Unit 3653